

Subpart 242.75—Contractor Accounting Systems and Related Controls

SOURCE: 60 FR 29500, June 5, 1995, unless otherwise noted.

242.7500 Scope of subpart.

This subpart provides policies and procedures applicable to contractor accounting systems and related internal controls.

242.7501 Definition.

Internal controls means those policies and procedures established by contractor management to provide reasonable assurance that applicable laws and regulations are complied with and that actual and estimated costs are equitably allocated within the accounting system.

242.7502 Policy.

Contractors receiving cost-reimbursement or incentive type contracts, or contracts which provide for progress payments based on costs or on a percentage or stage of completion, shall maintain an accounting system and related internal controls throughout contract performance which provide reasonable assurance that—

- (a) Applicable laws and regulations are complied with;
- (b) The accounting system and cost data are reliable;
- (c) Risk of misallocations and mischarges are minimized; and
- (d) Contract allocations and charges are consistent with invoice procedures.

242.7503 Procedures.

(a) Upon receipt of an audit report identifying significant accounting system or related internal control deficiencies, the ACO will—

- (1) Provide a copy of the report to the contractor and allow 30 days, or a reasonable extension, for the contractor to respond;
- (2) If the contractor agrees with the report, the contractor has 60 days from the date of initial notification to correct any identified deficiencies or submit a corrective action plan showing milestones and actions to eliminate the deficiencies.

(3) If the contractor disagrees, the contractor should provide rationale in its written response.

(4) The ACO will consider whether it is appropriate to suspend a percentage of progress payments or reimbursement of costs proportionate to the estimated cost risk to the Government, considering audit reports or other relevant input, until the contractor submits a corrective action plan acceptable to the ACO and corrects the deficiencies. (See FAR 32.503–6 (a) and (b) and FAR 42.302(a)(7)).

PART 243—CONTRACT MODIFICATIONS

Sec.

Subpart 243.1—General

- 243.102 Policy.
- 243.105 Availability of funds.
- 243.107 Contract clause.
- 243.107–70 Notification of substantial impact on employment.
- 243.170 Identification of foreign military sale (FMS) requirements.
- 243.171 Obligation or deobligation of funds.

Subpart 243.2—Change Orders

- 243.204 Administration.
- 243.204–70 Certification of requests for equitable adjustment.
- 243.205 Contract clauses.
- 243.205–70 Engineering change proposals.
- 243.205–71 Pricing of contract modifications.
- 243.205–72 Certification of requests for equitable adjustment.

AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36446, July 31, 1991, unless otherwise noted.

Subpart 243.1—General

243.102 Policy.

(b)(i) See subpart 217.74 for limitations on issuing undefinitized contract actions.

(ii) Modifications of letter contracts are subject to the same policies and procedures as modifications of definitive contracts.

243.105 Availability of funds.

(a)(i) 10 U.S.C. 2405 prohibits adjustments in price under a shipbuilding contract entered into after December 7,

Department of Defense

243.204

1983, for a claim, request for equitable adjustment, or demand for payment under the contract, arising out of events occurring more than 18 months before submission of the claim, request, or demand.

(ii) Section 558 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) provides that no funds available to DoD may be provided by contract or contract modification, nor may contract payments be made, to an institution of higher education that has a policy of denying or that effectively prevents the Secretary of Defense from obtaining for military recruiting purposes—

(A) Entry to campuses or access to students on campuses; or

(B) Access to directory information pertaining to students. (See 209.470.)

(iii) Pursuant to 10 U.S.C. 983, no funds may be obligated by contract or contract modification to an institution of higher education that has an anti-ROTC policy. (See 209.470.)

[61 FR 25408, May 21, 1996]

243.107 Contract clause.

For DoD, the *specifically authorized representative* (SAR) referred to in the clause at FAR 52.243-7, Notification of Changes, is a *contracting officer's representative* as defined in 202.101 and as discussed in subpart 201.6.

243.107-70 Notification of substantial impact on employment.

The Secretary of Defense is required to notify the Secretary of Labor if a modification of a major defense contract or subcontract will have a substantial impact on employment. The clause prescribed at 249.7002(c) requires that the contractor notify the contracting officer when a contract modification will have a substantial impact on employment.

[56 FR 67220, Dec. 30, 1991]

243.170 Identification of foreign military sale (FMS) requirements.

Identify contract modifications that add FMS requirements by clearly marking "FMS Requirement" on the front. Within the modification, cite each FMS case identifier code by line/

subline item number, e.g., FMS Case Identifier GY-D-DCA.

[56 FR 36446, July 31, 1991. Redesignated at 56 FR 67220, Dec. 30, 1991]

243.171 Obligation or deobligation of funds.

For each contract modification, the contracting officer shall identify, in Section G, Contract Administration Data (Uniform Contract Format), or the contract schedule (Simplified Contract Format), under the heading "Summary for the Payment Office," information sufficient to permit the paying office to readily identify the changes for each contract line and subline item as follows—

(a) The amount of funds obligated by prior contract actions, to include the total cost and fee if a cost-type contract; the target fee at time of contract award if a cost-plus-incentive-fee contract; the base fee if a cost-plus-award-fee contract; or the target price and target profit if a fixed-price incentive contract;

(b) The amount of funds obligated or deobligated by the instant modification, categorized by the types of contracts specified in paragraph (a) of this section; and

(c) The total cumulative amount of obligated or deobligated funds, categorized by the types of contracts specified in paragraph (a) of this section.

[60 FR 34470, July 3, 1995]

Subpart 243.2—Change Orders

243.204 Administration.

(b) *Definitization*. The administrative contracting officer (ACO) must review change orders issued by the contracting officer to ensure compatibility with the status of performance. If the contractor has progressed beyond the effective point specified in the change order, the ACO must determine the earliest practical point at which the change order could be made effective and advise the contracting officer. The contracting officer must issue another change order to correct, revise, or supersede the first change order, then definitize by supplemental agreement citing both change orders.

243.204–70 Certification of requests for equitable adjustment.

(a) A request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold may not be paid unless the contract certifies the request in accordance with the clause at 252.243–7002.

(b) The aggregate amount of both the increased and decreased costs shall be used in determining when the dollar threshold requiring certification is met (see example in FAR 15.804–2(a)(1)(iii)).

[62 FR 37147, July 11, 1997]

243.205 Contract clauses.**243.205–70 Engineering change proposals.**

Engineering changes can originate with either the contractor or the Government. In either case, the Government will need detailed information from the contractor for evaluation of the technical, cost, and schedule effects of implementing the change. When the contracting officer wants this information submitted in the format prescribed by MIL–STD–973, use the clause at 252.243–7000, Engineering Change Proposals. Use the clause with its Alternate I, when appropriate, to discourage submission of a large number of small dollar, contractor originated engineering change proposals.

[59 FR 27674, May 27, 1994]

243.205–71 Pricing of contract modifications.

Use the clause at 252.243–7001, Pricing of Contract Modifications, in solicitations and contracts when anticipating and using a fixed price type contract.

243.205–72 Certification of requests for equitable adjustment.

Use the clause at 252.243–7002, Certification of Requests for Equitable Adjustment, in solicitations and contracts estimated to exceed the simplified acquisition threshold.

[62 FR 37147, July 11, 1997]

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

Sec.

Subpart 244.2—Consent to Subcontracts

244.202 Contracting officer's evaluation.

244.202–2 Considerations.

Subpart 244.3—Contractors' Purchasing Systems Reviews

244.301 Objective.

244.304 Surveillance.

244.305 Granting, withholding, or withdrawing approval.

244.305–70 Granting, withholding, or withdrawing approval.

Subpart 244.4—Subcontracts for Commercial Items and Commercial Components

244.403 Contract clause.

AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36447, July 31, 1991, unless otherwise noted.

Subpart 244.2—Consent to Subcontracts**244.202 Contracting officer's evaluation.****244.202–2 Considerations.**

(a) Where other than lowest price is the basis for subcontractor selection, has the contractor adequately substantiated the selection as offering the greatest value to the Government?

[60 FR 29501, June 5, 1995]

Subpart 244.3—Contractors' Purchasing Systems Reviews**244.301 Objective.**

The administrative contracting officer (ACO) is responsible for reviewing the contractor's purchasing systems. Members of other organizations such as audit or program management activities should not conduct separate reviews of a contractor's purchasing system, but may participate in a review